

## Decision Summary Allen

- The respondent, Karl-John Takapua Allen has been censured and this will be annotated on the Teachers Register for 12 months.
- The Disciplinary Tribunal of the Education Council found his behaviour constituted serious misconduct.
- The Complaints Assessment Committee (CAC) of the Education Council investigated and brought this complaint to the Council's Disciplinary Tribunal, which is in independent entity, for a decision.
- The CAC charged Mr Allen's behaviour amounted to serious misconduct because he failed to treat colleagues and associates with respect, and/or failed to work with them cooperatively and collegially.
- Mr Allen was found to have written an open letter distributed to 28 people in and out of school which was critical of the principal, used inflammatory language, described the principal as someone who discriminates and implied the principal was bigoted and racist.

NZTDT 2015/58

**BEFORE THE NEW ZEALAND TEACHERS DISCIPLINARY TRIBUNAL**

**UNDER** the Education Act 1989

**IN THE MATTER** of disciplinary proceedings commenced by a  
Complaints Assessment Committee of the  
Education Council of Aotearoa New Zealand

**BETWEEN** **COMPLAINTS ASSESSMENT COMMITTEE**  
Complainant

**A N D** **KARL-JOHN TAKAPUA ALLEN**  
Respondent

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**DECISION OF TRIBUNAL**

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**Tribunal:** Kenneth Johnston (Chair), Sally Ormandy  
and Nikki Parsons

**Hearing:** On the papers

**Decision:** 21 April 2016

**Counsel:** Jamie Eng for Complainant  
C R English for Respondent

## Introduction

- [1] The Education Council of New Zealand's Complaints Assessment Committee charges the Respondent with serious misconduct.
- [2] The Notice of Charge is dated 7 December 2015. It particularises the charge in these terms:

### *"Particulars of charge*

3. *The Complaints Assessment Committee, pursuant to Section 401 charges that **KARL-JOHN TAKAPUA ALLEN**, teacher of Whanganui, behaved in an unprofessional manner amounting to serious misconduct and/or misconduct in that he:*

3.1 *failed to treat colleagues and associates with respect, and/or failed to work with them co-operatively and collegially to promote student learning, in that the, wrote an open letter, distributed to 28 people in and out of the School environment, which was:*

3.1.1 *critical of the Principal;*

3.1.2 *used language that was inflammatory, offensive and disrespectful to the principal;*

3.1.3 *described the Principal as someone who discriminates, is prejudiced, segregating and silencing;*

3.1.4 *implied that the Principal was bigoted and racist;*

3.1.5 *described the Principal as being prepared to sacrifice Maori interests;*

3.1.6 *linked the Principal with apartheid;*

3.1.7 *said that the Principal prioritised self-interest to further his own career and was not committed to the best interests of Whanganui;*

3.1.8. *said that the Principal was guilty of duplicity and was blinded by his own arrogance; and*

3.2 *failed to advance the interests of the teaching profession through responsible ethical practice, in that:*

3.2.1 *After phoning the School on Friday 5 and Tuesday 9 September to advise that he was taking stress leave from the School, attended the School on Tuesday 9 September to type up the open letter, referred to in paragraph 3.1. above, and accessed the School's print server system, charging the printing to the School's social science faculty; and*

3.2.2 *distributed the letter to 18 members of staff and 10 others, including the Whanau Chair, two other whanau representatives, two members of the local iwi, two people connected with Te Puna Matauranga, two people connected with Cognition and one person from Ako Panuku.*

4. *The conduct alleged in paragraphs 3, 3.1 to 3.2 either separately or cumulatively amounts to serious misconduct and/or misconduct pursuant to section 378 of the Education Act 1989 and Rule 9(1)(o) of the New Zealand Teachers Council (Making Reports and Complaints) Rules 2004."*

[3] Following a pre-hearing telephone conference on 3 February 2016, the matter was set down for hearing.

[4] Subsequently, the parties filed a joint memorandum dated 17 March 2016 in these terms:

**"MAY IT PLEASE THE TRIBUNAL:**

1. *The Complaints Assessment Committee has laid a charge that the respondent has engaged in serious misconduct and/or misconduct, entitling the Tribunal to exercise its powers.*

2. *The particulars of the charge are set out in the Notice of Charge dated 7 December 2015.*

**Admission of facts and charge**

3. *The respondent confirms the Agreed Summary of Facts, which is annexed and marked "A".*
4. *The respondent admits the charge and accepts that his conduct amounts to either misconduct or serious misconduct in terms of s378 of the Education Act 1989 and rule 9(1)(o) New Zealand Teachers Council (Making Reports and Complaints) Rules 2004.*
5. *The CAC acknowledges that by taking responsibility for his conduct, the respondent has demonstrated insight into his behaviour, such that the only penalty required in the public interest is censure and annotation of that censure on the register of teachers for 12 months from the date of the censure.*
6. *The parties agree that a reasonable contribution by the respondent to the CAC's costs is \$1350 (approximately 30% of the CAC's costs to date). The parties acknowledged that the Tribunal will also order a reasonable contribution to its own costs.*
7. *Both parties acknowledge that judgments about misconduct, serious misconduct, and penalty are ultimately matters for the Tribunal. Should the Tribunal disagree with the position agreed by the parties in this memorandum, the parties seek leave to be heard.*

**DATED** at Wellington this 17<sup>th</sup> day of March 2016"

- [5] The Agreed Statement of Fact which was appended to the parties' joint memorandum was in the following terms:

**"AGREED SUMMARY OF FACTS**

1. *Karl-John Allen is a registered teacher. Mr Allen taught at Whanganui High School between 2009 and 2 February 2015, when he resigned.*

**Background**

2. *At approximately 2:35p.m. on 4 September 2014 the Principal of Wanganui High School was in the staffroom eating lunch. The*

respondent approached him and asked for a chat. The respondent and the Principal then discussed various issues relating to the school.

3. The next day (5 September 2014) the respondent left a message on the school's voicemail saying "I am too stressed to come to school – I am sick of this place – I am taking the day off". At 7:35a.m. the Principal, not realising that the respondent would not be attending school, sent him a message through the school's internal email system asking to see him during the day because he found his actions the previous day unacceptable. The Principal did not receive a reply that day.

#### **Circumstances**

4. The respondent returned to school on the next working day, Monday 8 September. Having received the Principal's email, the respondent replied at 11:42am, saying "I am not available to meet with you today, but a letter will be forth coming [sic]". The principal replied at 12:26p.m., reiterating his desire to see the respondent and noting that there would be consequences if the respondent ignored this instruction. At 12:50p.m., 12:52p.m., and 8p.m., the respondent printed copies of an "open letter" (attached as Appendix 1) from school printers, charging the print job to the Social Sciences faculty. At 8:38p.m. the respondent sent an email to the principal saying that a letter would outline his concerns, that it would request a restorative meeting, that he felt culturally unsafe in meeting the principal, that he was taking stress leave, and that a doctor's certificate would be "forth coming". At 10:23p.m. the respondent used a school printer to print further copies of the open letter, again charging the Social Sciences faculty.
5. The next day (Tuesday 9 September) the respondent left a message on the school's voicemail saying that he was taking stress leave until the next Tuesday (15 September) and that he would not provide any relief work. The respondent went to the school and used its printers for 7 print jobs between 11:44a.m. and 3:42p.m.

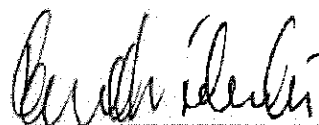
6. *The open letter was typed on school computers and printed on school printers on days that the respondent did not attend to his teaching duties on the basis that he was on stress leave.*
7. *Mr Allen sent the open letter to the following people between in October 2014:*
  - *four members of the Senior Leadership Team at the school;*
  - *the school's PPTA representative;*
  - *three school staff involved with He Kakahu;*
  - *the four Maori Studies staff at the school;*
  - *four school staff who identify as Maori;*
  - *two heads of faculty;*
  - *the Whanau Chair and two other whanau representatives;*
  - *two members of the local Iwi;*
  - *two people connected with Te Puna Matauranga (iwi education authority);*
  - *two people connected with Cognition; and*
  - *one person from Ako Panuku (a national group dedicated to supporting and building on the expertise and professionalism of Maori teachers).*

*I, Karl-John Tukapua ALLEN of Whanganui, confirm and admit the agreed summary of facts.*

*Dated this 17<sup>th</sup> day of March 2016"*

- [6] Having regard to the agreed factual situation, the Tribunal agrees with the parties that the Respondent's conduct constituted serious misconduct, and that the proposed outcome is appropriate.
- [7] Accordingly, the Tribunal makes the following formal orders:
  - Pursuant to s404 (1)(b) of the Education Act 1989, the Tribunal censures the Respondent for his serious misconduct;
  - Pursuant to s 404(1)(e), the Tribunal orders that for a period of 12 months from the date of this decision the Register be annotated to refer to this decision and the censure which the Tribunal has imposed on the Respondent.

- [8] The parties have agreed that the Respondent should pay \$1,350 to the Complainant by way of a contribution to his costs. They also contemplate in their joint memorandum that the Tribunal will make an order for a reasonable contribution to its own costs.
- [9] In those circumstances, it seems appropriate to reserve costs. The Secretary is directed to provide counsel for both parties with a copy of the Tribunal's schedule of costs, which total \$1,575. The Tribunal's preliminary inclination, reached without the benefit of submissions, is to think that the Respondent should be ordered to contribute 50% of those costs. In order to bring matters to a conclusion, the Tribunal makes the following directions:
- Within 10 working days of the date of this decision, the Respondent is to file a short memorandum making any submissions he wishes to make in relation to the Tribunal's costs. The Tribunal does not need to hear from the Complainant on that issue;
  - Subject to the parties being agreeable to this, when those submissions are to hand, the Chair will deal with the costs issue.



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Kenneth Johnston  
Chairman



**NOTICE**

1. A person who is dissatisfied with all or any part of a decision of the Disciplinary Tribunal under sections 139AU (2) or 139AW of the Education Act 1989 may appeal to a District Court.
2. An appeal must be made within 28 days of receipt of written notice of the decision, or within such further time as the District Court allows.
3. Subsections (3) – (7) of section 126 apply to every appeal as if it were an appeal under subsection (1) of section 126.